

restricted land within a tribe's reservation or outside of a reservation and subject to such tribe's jurisdiction shall descend by intestacy or devise but shall escheat to the reservation's recognized tribal government, or if outside of a reservation, to the recognized tribal government possessing jurisdiction over the land if such interest represents 2 per centum or less of the total acreage in such tract and is incapable of earning \$100 in any one of the five years from the date of decedent's death. Where the fractional interest has earned to its owner less than \$100 in any one of the five years before the decedent's death, there shall be a rebuttable presumption that such interest is incapable of earning \$100 in any one of the five years following the death of the decedent.

(b) Escheatable fractional interest

Nothing in this section shall prohibit the devise of such an escheatable fractional interest to any other owner of an undivided fractional interest in such parcel or tract of trust or restricted land.

(c) Adoption of Indian tribal code

Notwithstanding the provisions of subsection (a) of this section, any Indian tribe may, subject to the approval of the Secretary, adopt its own code of laws to govern the disposition of interests that are escheatable under this section, and such codes or laws shall take precedence over the escheat provisions of subsection (a) of this section, provided, the Secretary shall not approve any code or law that fails to accomplish the purpose of preventing further descent or fractionation of such escheatable interests.

(Pub. L. 97-459, title II, §207, Jan. 12, 1983, 96 Stat. 2519; Pub. L. 98-608, §1(4), Oct. 30, 1984, 98 Stat. 3172; Pub. L. 101-644, title III, §301(a), Nov. 29, 1990, 104 Stat. 4666.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-644 substituted "No undivided interest held by a member or nonmember Indian in any tract of trust land or restricted land within a tribe's reservation or outside of a reservation and subject to such tribe's jurisdiction shall descend by intestacy or devise but shall escheat to the reservation's recognized tribal government, or if outside of a reservation, to the recognized tribal government possessing jurisdiction over the land" for "No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe".

1984—Pub. L. 98-608 amended section generally, designating existing provisions as subsec. (a), striking out "fractional" before "interest in any tract", substituting "descend" for "descendent" before "by intestacy or devise", and "is incapable of earning \$100 in any one of the five years from the date of decedent's death" for "has earned to its owner less than \$100 in the preceding year before it is due to escheat", and inserting second sentence and adding subsecs. (b) and (c).

§ 2207. Full faith and credit to tribal actions under tribal ordinances limiting descent and distribution of trust or restricted or controlled lands

The Secretary in carrying out his responsibility to regulate the descent and distribution of trust lands under section 372 of this title, and

other laws, shall give full faith and credit to any tribal actions taken pursuant to section 2205 of this title, which provision shall apply only to estates of decedent's whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this chapter.

(Pub. L. 97-459, title II, §208, Jan. 12, 1983, 96 Stat. 2519.)

§ 2208. Conveyancing authority upon sale or exchange of tribal lands; removal of trust status of individually owned lands

The Secretary shall have the authority to issue deeds, patents, or such other instruments of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to the terms of this chapter and to remove, at the request of an Indian owner, the trust status of individually held lands or interests therein, where authorized by law.

(Pub. L. 97-459, title II, §209, Jan. 12, 1983, 96 Stat. 2519.)

§ 2209. Trusteeship title of United States for any Indian or Indian tribe

Title to any land acquired under this chapter by any Indian or Indian tribe shall be taken in trust by the United States for that Indian or Indian tribe.

(Pub. L. 97-459, title II, §210, Jan. 12, 1983, 96 Stat. 2519.)

§ 2210. Tax exemption

All lands or interests in land acquired by the United States for an Indian or Indian tribe under authority of this chapter shall be exempt from Federal, State and local taxation.

(Pub. L. 97-459, title II, §211, Jan. 12, 1983, 96 Stat. 2519.)

§ 2211. Governing body of tribe; construction of chapter as not vesting with authority not authorized by tribal constitution or by-laws

Nothing in this chapter shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and by-laws or other organizational document of such tribe.

(Pub. L. 97-459, title II, §212, as added Pub. L. 98-608, §1(5), Oct. 30, 1984, 98 Stat. 3173.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 97-459, Jan. 12, 1983, 96 Stat. 2515, as amended, title II of which is classified to this chapter. For complete classification of this Act to the Code, see Tables.

CHAPTER 25—OLD AGE ASSISTANCE CLAIMS SETTLEMENT

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§ 2301. Definitions

For purposes of this chapter, the term—

(1) “Secretary” means the Secretary of the Interior;

(2) “unauthorized disbursement” means a disbursement made from the trust estate of a deceased Indian which was made by the Secretary to a State or a political subdivision of a State for the purpose of reimbursing the State or political subdivision for any old age assistance made to the deceased Indian before death in violation of Federal laws governing Indian trust property: *Provided*, That, except for purposes of section 2303 of this title, the term also includes the reimbursements for welfare payments identified in either the list published on April 17, 1985, at page 15290 of volume 50 of the Federal Register, as modified or amended on November 13, 1985, at page 46835 of volume 50 of the Federal Register, or the list published on March 31, 1983, at page 13698 of volume 48 of the Federal Register, as modified or amended on November 7, 1983, at page 51204 of volume 48 of the Federal Register; and

(3) “trust estate” means that portion of the estate that consists of real or personal property, title to which is held by the United States for the benefit of the Indian or which may not be alienated without the consent of the Secretary.

(Pub. L. 98-500, §2, Oct. 19, 1984, 98 Stat. 2317; Pub. L. 100-153, §5, Nov. 5, 1987, 101 Stat. 886.)

AMENDMENTS

1987—Par. (2). Pub. L. 100-153 inserted proviso that “unauthorized disbursement” includes specifically identified reimbursements for welfare payments.

SHORT TITLE

Section 1 of Pub. L. 98-500 provided: “That this Act [enacting this chapter] may be cited as the ‘Old Age Assistance Claims Settlement Act’.”

§ 2302. Payment of claims**(a) Authority of Secretary**

The Secretary is authorized and directed to determine the portion of any unauthorized disbursement to which any individual under this chapter is entitled, and to pay to such individual the amount which the Secretary determines such individual to be entitled. Any payment under this provision shall include interest at a rate of 5 per centum per annum, simple interest, from the date on which such disbursement was

made from the trust estate of the deceased Indian.

(b) Minimum amount for payment

No payment shall be made to a person under subsection (a) of this section with respect to any unauthorized disbursement from the trust estate of a deceased Indian if—

(1) the total amount of unauthorized disbursements from such trust estate was less than \$50; or

(2) the payment (not including interest) would be less than \$10.

(Pub. L. 98-500, §3, Oct. 19, 1984, 98 Stat. 2317; Pub. L. 100-581, title II, §201, Nov. 1, 1988, 102 Stat. 2939.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-581 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “No payment shall be made under subsection (a) of this section with respect to any unauthorized disbursement from the trust estate of a deceased Indian if the total amount of unauthorized disbursement from such trust estate was less than \$50.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2304 of this title.

§ 2303. Notice**(a) Publication; list of trust estates; unauthorized disbursements; Federal Register**

Within one hundred and eighty days after October 19, 1984, the Secretary shall publish in the Federal Register a list of all trust estates from which unauthorized disbursements are known to have been made, including the amount of the unauthorized disbursement made from each such trust estate.

(b) Secretary to provide information to affected tribes, bands, or groups

Within thirty days after the publication of this list, the Secretary shall provide a copy of this chapter and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band, or group the rights of whose members may be affected by this chapter.

(c) Submission of additional unauthorized disbursement claims

Any tribe, band or group of Indians, or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in subsection (b) of this section to submit to the Secretary any additional unauthorized disbursement claims not contained on the list.

(d) Publication of additional unauthorized disbursement claims

Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (c) of this section, the Secretary shall publish in the Federal Register a list containing the additional unauthorized disbursement claims submitted during such period.

(Pub. L. 98-500, §4, Oct. 19, 1984, 98 Stat. 2317.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2301 of this title.